IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12720 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GARDEN SILK MILLS LTD & 1 - Petitioner(s)

Versus

UNION OF INDIA & 3 - Respondent(s)

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Appearance :

MR MIHIR H JOSHI for Petitioner(s) : 1 - 2.
MR RM CHHAYA for Respondent(s) : 1 - 4.
NOTICE SERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 21/01/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE D.A.MEHTA)

1 Pursuant to order dated 26/10/2005 made by this Court, it is accepted that respondent No.3 had granted

hearing to the petitioner but before he could frame the adjudication order, the Commissioner who heard the petitioner has been transferred. The new incumbent has sought extension of time on the ground that an identical issue involved in the case of one *Sidharth Philaments Pvt.Ltd.,*is pending before CESTAT and, hence, the department would like to await outcome of the said matter pending before the Tribunal, before the impugned Show Cause Notice dated 25/01/1999 is adjudicated upon. The learned Advocate for the petitioner has no objection, subject to the request that in the meantime the impugned Show Cause Notice may be kept in abeyance.

2 In light of the aforesaid position the respondent authorities are directed to keep the impugned Show Cause Notice in abeyance till the decision of the Tribunal in the case of *Sidharth Philaments Pvt.Ltd.,* pending before the Tribunal. After the order of the Tribunal is available, the respondent authorities shall grant reasonable opportunity of hearing to the petitioner upon the pending Show Cause Notice and thereafter pass necessary adjudication order in accordance with law. In the meantime, the Show Cause Notice shall not be proceeded with.

3 Needless to state that the matter shall not necessarily rest only in light of the decision of the Tribunal and it will be open to both the sides to take all contentions as are available, both in facts and in law.

4 The petition is disposed of accordingly. Rule is discharged with no order as to costs.

Sd/- Sd/-
(D.A.Mehta,J) (H.N.Devani, J)

m.m.bhatt